

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
QUICK TIPS FOR PREPARING CJA VOUCHERS

PLEASE REMEMBER:

CJA 21

WITH PRIOR AUTHORIZATION: Compensation for investigative, expert and other services is limited to \$1,600 per organization or individual, exclusive of reimbursement for expenses reasonably occurred, per individual authorization to perform said service, except with regard to capital cases. A separate authorization should be obtained for each type of service for each person served, and for each defendant served, and for each case. While the contractor may be compensated separately for each defendant served, care should be taken to ensure that duplicate charges are not being made for the same services. The Guide - Ch. III - Part A - Section 3.02(A)

PAYMENT IN EXCESS OF \$1,600: Payment in excess of the \$1,600 limit for services authorized prior to the performance thereof may be made when certified by the United States judge or United States magistrate judge and approved by the chief judge of the circuit as being necessary to provide fair compensation for services of an unusual character or duration. If it can be anticipated that the compensation will exceed the statutory maximum, advance approval should be obtained from the court and the chief judge of the circuit. The Guide - Ch. III - Part A - Section 3.02(A)

WITHOUT PRIOR AUTHORIZATION: IF YOU ARE OBTAINING THE SERVICES OF AN INVESTIGATOR, INTERPRETER OR OTHER EXPERT - ADVANCE APPROVAL MUST BE OBTAINED IF THOSE SERVICES EXCEED \$500.00. The Guide - Ch. III - Part A - Section 3.02(B)

IMPORTANT - PLEASE READ RE: THE \$90 RATE

Even though the rate is the same for both in-court and out-of-court for services after May 1, 2002, it is still important that you record your time properly between the two, as these figures are used for statistical purposes.

CJA RATES

	<u>In-Court</u>	<u>Out-of-Court</u>
Begin May 1, 2002	\$ 90.00	\$ 90.00
April 1, 2001 - April 30, 2002	75.00	55.00
Jan 1, 2000 - March 31, 2001	70.00	50.00
Jan. 1, 1996 - Dec. 31, 1999	65.00	45.00
Prior to Jan. 1, 1996	60.00	40.00

MILEAGE RATES:

MILEAGE RATES - BEGIN Sept. 1, 2005 - Dec. 31, 2005	\$.485
MILEAGE RATES - BEGIN Feb. 4, 2005	\$.405
MILEAGE RATES - BEGIN Jan. 1, 2004	\$.375
MILEAGE RATES - BEGIN Jan. 1, 2003	\$.36
MILEAGE RATES - BEGIN Jan. 21, 2002	\$.365
MILEAGE RATES - BEGIN Jan. 14, 2000	\$.325
MILEAGE RATES - BEGIN Apr. 1, 1999	\$.31

For All Work COMPLETED after November 13, 2000.

If any representational services were provided on or after November 13, 2000, the new case maximums apply to the entire representation, including services performed before November 13.

If all representational services were completed before November 13, 2000, the former case maximums apply.

CASE COMPENSATION MAXIMUMS -The Guide - Ch. II - Part C - Section 2.22(B)

Applicability and Exclusions. All compensation limits are for each attorney in each case. The case compensation limits are not applicable in federal capital cases and in death penalty federal habeas corpus proceedings. Case compensation limits apply only to attorney fees. There is no limit on the presiding judicial officer's authority to approve the reimbursement of expenses of counsel, and the chief judge of the circuit has no role in authorizing the payment of such expenses.

Specific Proceedings:

- a. Felonies (except federal capital prosecutions)
 - \$7,000 for trial court level.
 - \$5,000 for appeal.

- b. Misdemeanors (including petty offenses class B or C misdemeanors or infractions)
 - \$2,000 for trial court level.
 - \$5,000 for appeal.

- c. Habeas Petitions
 - \$7,000 for trial court level.
 - \$5,000 for appeal.

d. Pre-trial Diversion

\$7,000 if offense alleged is a felony.
\$2,000 if offense alleged is a misdemeanor.

e. Other

\$1,500 for trial court level.
\$1,500 for appeal.

Includes but is not limited to:

1. Probation Violation
2. Supervised Release Hearing
3. Parole Proceedings under 18 U.S.C. Ch. 311
4. Material Witness in Custody
5. Persons seeking relief under 28 U.S.C. § 2241 or 2255
6. Mental Condition Hearings Pursuant to 18 U.S.C. Ch. 313
7. Civil or Criminal Contempt (where the person faces loss of liberty).
8. Witness.
9. International Extradition under 18 U.S.C. Ch. 209

IN-COURT and OUT-OF-COURT HOURLY WORKSHEETS:

SEPARATE WORKSHEETS FOR IN-COURT, OUT-OF-COURT AND OTHER EXPENSES MUST BE USED WHEN SUBMITTING YOUR CJA VOUCHERS FOR PAYMENT. IF YOU USE YOUR OWN FORMS, THEY MUST BE FORMATTED AS SET OUT IN THE SAMPLE WORKSHEETS ATTACHED. VOUCHERS SHOULD NOT BE SUBMITTED WITH IN-COURT, OUT-OF-COURT AND OTHER EXPENSES INTERMINGLED CHRONOLOGICALLY.

These Worksheets were devised to standardize the itemization and documentation of hourly totals and services performed by Court Appointed Counsel in the defense of a client under the Criminal Justice Act. Each attorney should provide the following on the worksheet.

1. The case number pertaining to the case.
2. For each service rendered provide the following:
 - a. The date the service was performed.
 - b. A brief description of the service performed.
 - c. The time spent performing the service.

The time spent performing the service will be reported in tenths, .10, .20, etc. **Do not use .25 or .33, as the computer will round off these figures.** In addition, the time reported will be listed under the appropriate category.

Once all services have been documented, the hours column pertaining to each service category will be totaled. If more than one page is required, a page total should be provided on each page. A grand total of all page totals should be provided on the final page. The grand total hours for each service category will then be transferred to the face of the CJA-20 and listed across from the applicable service, and added to arrive at the total hours. The in-court and out-of-court compensation should be calculated by multiplying the applicable hourly rate by the total hours.

3. Each page should be numbered, i.e., Page 1 of 2, Page 2 of 2, etc.

Once all necessary information has been completed and transferred to the CJA-20, the worksheets should be attached to the CJA-20 voucher.

GENERAL INFORMATION FOR OTHER EXPENSES

General:

Receipts for expenses in excess of \$50.00 must be submitted. The worksheet should include a description of the services - a breakdown of how the hours were spent, and on what dates the services were performed. Travel expenses must be adequately explained - including date, destination and purpose of travel.

REIMBURSABLE OUT-OF-POCKET EXPENSES (CJA-20 form) The Guide - Ch. II - Part C - Section 2.27

Out-of-pocket expenses reasonably incurred may be claimed on the CJA-20 voucher, and must be itemized and reasonably documented. Expenses for investigators, interpreters or other services under subsection (e) of the Act shall not be considered out-of-pocket expenses and should not be claimed on the CJA-20 voucher. A CJA-21 should be filed by the investigator, interpreter or other expert.

Out-of-pocket expenses include

1. Travel Expenses

Travel by a privately owned automobile should be claimed at the rate prescribed (currently .485 cents per mile) for federal judiciary employees who use a private automobile for conducting official business, plus parking fees, ferry fares, and bridge, road and tunnel tolls. Other means of transportation should be claimed on an actual expense basis.

Counsel's expenses for meals and lodging incurred in the representation of the defendant constitute reimbursable out-of-pocket expenses.

In determining whether actual expenses incurred are 'reasonable', counsel should be guided by the prevailing limitations placed upon travel and subsistence expenses of Federal judiciary employees in accordance with existing government travel regulations. Proof of payment for expenses in excess of \$50.00 must be attached to the voucher.

- a. Subsistence for lodging and meals needs to be supported by receipts. Counsel should be guided by prevailing limitations placed on Federal Judiciary employees.
- b. Mileage for counsel and for investigative and expert witnesses is limited to the rate for Government employees - currently **.485** cents per mile. (As of 9/1/05).
- c. Air-fare: Government travel rates at substantial reductions from ordinary commercial rates may be available from common carriers for travel authorized by the Court. To obtain such rates, attorneys must contact the Clerk of Court and obtain prior approval from the presiding Judicial Officer.
- d. Taxi or public transit from office to airport and from airport to courthouse is authorized; receipts should be provided. Car rental is also authorized if receipts are provided.
- e. Photocopies. Counsel should indicate the number of copies made (if made in their office) and the price charged per copy, **not to exceed 25 cents per copy; if copies are procured out of the office, a receipt for those copies needs to be attached.**
- f. Postage.
- g. Telephone tolls. An itemized listing should be attached indicating the date, number and to whom a long distance call was placed, as well as the cost of each call.
- h. Fax charges that were reasonably incurred.
- i. Any miscellaneous charges (such as photographs) should be documented by receipts.
- j. Research by a law student or clerk may be billed by counsel as an allowable expense.
- k. **Computer research is allowed provided the cost does not exceed comparable, reasonable time spent by counsel doing manual research. Charges for computer research must be documented by: (1) a brief**

statement setting forth the issue or issues that were the subject matter of the research; (2) an estimate of the number of hours of attorney time that would have been required to do the research manually; and (3) a copy of the bill and receipt for the use of the equipment or an explanation of the precise basis of the charge. The Guide - Ch. II - Part C - Section 2.27(B)

NON-REIMBURSABLE ITEMS The Guide - Ch. II - Part C - Section 2.28

- a. General Office Overhead: General office overhead includes general office expenses which would normally be reflected in the fee charged to the client. The statutory fee is intended to include compensation for these general office expenses. Therefore, except in extraordinary circumstances, personnel, rent, telephone service and secretarial expenses associated with CJA representation, whether work is performed by counsel or other personnel, are not reimbursable.
- b. Items and Services of Personal Nature: **The cost of items of a personal nature purchased for or on behalf of the person represented, such as purchasing new clothing or having clothing cleaned, getting a haircut, furnishing cigarettes, candy or meals, etc.** Also, assisting the defendant in the disposition of his or her personal property, arranging for the placement of minor children, assisting the defendant in executing the conditions of probation, providing legal assistance in matters unrelated to the litigation of the case, although incidental to the defendant's arrest, etc.
- c. Filing Fees: Attorneys should not be required to pay a filing fee in a CJA case inasmuch as such payment and reimbursement thereof is tantamount to the Government billing itself to accomplish a transfer of appropriated funds in the General Fund of the Treasury.
- d. Printing of Briefs: The expense of printing briefs, regardless of the printing method utilized, is not reimbursable; however, the cost of mimeographing, "xeroxing", or similar copying service is reimbursable.
- e. Service of Process: Witness fees, travel costs, and expenses for service of subpoenas on fact witnesses, are not payable out of the CJA appropriation but are governed by Rule 17 Fed. R. Crim. P. and 28 U.S.C. § 1825
- f. Taxes: Taxes paid on attorney compensation received pursuant to the CJA, whether based on income, sales, or gross receipts, are not reimbursable expenses.

OTHER EXPENSE WORKSHEET:

This worksheet was devised to standardize the itemization of other reimbursable expenses incurred by CJA Counsel. Each attorney should provide the following on the worksheet:

1. The case number pertaining to the claim.
2. For each item of other Expense incurred, provide the following:
 - a. The date incurred.
 - b. A brief explanation of the expense.
 - c. The amount of expense incurred.

Attach supporting documentation, i.e., receipts, canceled checks and invoices for all expenses in excess of \$50.00. Such expense items as mileage and copying should show the total miles and pages, respectively, multiplied by the applicable rate to arrive at the expense incurred. The expenses incurred should then be listed under the appropriate category, i.e., Mileage, Parking, Copying, Postage, etc.

Once all Other Expenses have been itemized, total each column listing the Total Amount. Transfer and list other expense categories and their applicable totals, to the face of the CJA-20. The Other Expense Worksheet along with any supporting documentation must be attached to the CJA-20.

Depositions: Depositions are covered by the Fed. R. Crim. P. Rule 15. Expenses incurred in the taking of fact witness depositions (notarial fees, interpreters, transcripts, etc.) are paid by the Department of Justice, regardless of which party

requested the deposition. **CHECK WITH THE U. S. ATTORNEY'S OFFICE.** The Guide - Ch. III - Part B - Section 3.13

CJA-21

NOTICE TO CJA PANEL ATTORNEYS REGARDING AVAILABILITY OF INVESTIGATIVE, EXPERT AND OTHER SERVICE

The Guide - Ch. III

All attorneys appointed to provide representation under the Criminal Justice Act, 18 U. S. C. §3006A, may request, under sub-section (e) of the Act, authorization to obtain investigative, expert and other services necessary for adequate representation, to be paid for out of funds appropriated for the administration of the Act.

In addition to investigators, psychiatrists, psychologists and reporters, services other than counsel may include, but are not limited to, interpreters, neurologists, and laboratory experts in the area of ballistics, fingerprinting, handwriting, etc.

Requests for authority to obtain "subsection (e)" services should be made to the presiding judge or magistrate (see cautionary note below). To prevent the possibility that an open hearing concerning a request for sub-section (e) services will cause a defendant to reveal his or her defense, these requests should be made by *ex parte* application. Guidelines promulgated by the United States Judicial Conference, Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures (CJA Guidelines) provide that the applications shall be heard *in camera* and not be revealed without the consent of the defendant. The Guidelines further state that such applications shall be placed under seal until the final disposition of the case in the trial court, subject to final order of the Court.

CAUTIONARY NOTE

There are, however, limitations that apply to the obtaining of these services. **PRIOR AUTHORIZATION SHOULD BE SECURED** from the presiding judicial officer for all sub-section (e) services where the cost (exclusive of reimbursement for expenses) will exceed \$500. In addition to prior authorization, once the services have been provided, the claims for compensation must be approved by the presiding judicial officer. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$500, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization.

Except in death penalty cases, claims for compensation in excess of \$1,600 (excluding reimbursement for expenses) may be paid only if the presiding judicial officer certifies that payment in excess of that amount is necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the Chief Judge of the Circuit (or the active Circuit Judge to whom the Chief Judge has delegated excess compensation approval authority). Payment for sub-section (e) services should be claimed directly by the service provider on the CJA Form 21, "Authorization and Voucher for Expert and Other Services."

LIST OF PERTINENT CJA FORMS

CJA-20 Appointment of and Authority to Pay Court
Appointed Counsel

CJA-21 Authorization and Voucher for Expert or Other
Services

CJA-22 Statement of Parolee or Mandatory Release
Concerning Appointment of Counsel Under the
Criminal Justice Act

CJA-23 Financial Affidavit

CJA-24 Authorization and Voucher for Payment of Transcript

CJA-25 Notice to CJA Panel Attorneys Regarding Availability of Investigative, Expert, and Other Services (included as part of this packet.)

CJA-26 Supplemental Information Statement for a Compensation Claim in Excess of the Statutory Case Compensation Maximum: District Court (2 pages)

CJA-26A Guidance to Attorneys in Drafting the Memorandum Required for A compensation Claim in Excess of the Case Compensation Maximum: District Court

MEMORANDUM

DATE: _____

TO: CHIEF JUDGE (or delegate)
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

FROM: _____

RE: ADVANCE AUTHORIZATION FOR INVESTIGATIVE, EXPERT,
OR OTHER SERVICES

It is requested that advance authorization be granted to obtain services in an amount in excess of the maximum allowed under the provisions of subsection (e)(3) of the Criminal Justice Act, 18 U.S.C. section 3006A, as follows:

Case Name & Designation: _____

Name of Expert or Investigator _____

Address _____

Type of Expert _____

Reasons for Application _____

Estimated Compensation/Fee _____

I certify that the estimated compensation or fee in excess of the maximum set forth in subsection (e)(3) of the Criminal Justice Act appears necessary to provide fair compensation for services of an unusual character or duration and therefore recommend approval of this advance authorization in the amount of \$_____.

UNITED STATES DISTRICT JUDGE
OR MAGISTRATE

Date _____

Advance authorization is hereby approved in the amount of \$_____.

CHIEF JUDGE, UNITED STATES
COURT OF APPEALS (or delegate)

Date _____

GUIDANCE TO ATTORNEYS IN DRAFTING THE MEMORANDUM REQUIRED FOR A COMPENSATION CLAIM IN EXCESS OF THE CASE COMPENSATION MAXIMUM: DISTRICT COURT

Paragraph 2.22C(2) of the *Guidelines for the Administration of the Criminal Justice Act (CJA Guidelines)*, Volume VII, *Guide to Judiciary Policies and Procedures*, provides:

In any case in which the total compensation claimed is in excess of the statutory case compensation maximum, counsel shall submit with the voucher a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation.

Paragraph 2.22B(3) of the *CJA Guidelines* states that a case is complex if the "legal or factual issues. . . are unusual, thus requiring the expenditure of more time, skill and effort by the lawyer than would normally be required in an average case," and that a case is extended if "more time is reasonably required for total processing than the average case". Paragraph 2.22B(3) lists the following criteria as useful in determining fair compensation in extended or complex cases: responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed; knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and injury thereto; any extraordinary pressure of time or other factors under which services were rendered; and any other circumstances relevant and material to a determination of a fair and reasonable fee.

To assist counsel in writing a "detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case, and that the excess payment is necessary to provide fair compensation," the following topics are provided for counsel's consideration. Some of these issues may not apply to a particular case or may not be noteworthy for this memorandum. Counsel, of course, may address topics other than those listed below.

Length of appointment to case; total number of in-court hours, specifying pre-trial hearings, trial, sentencing hearings, and other; and total number of out-of-court hours.

Offense(s) charged; number of counts charged; and other pending cases of defendant during the representation.

Number of co-defendants.

The sentencing guideline range found by the court and whether a mandatory minimum was found or at issue at sentencing.

Discovery materials (nature and volume) and/or discovery practices.

Motions, legal memoranda, jury instructions, and sentencing documents, or legal research not resulting in such, which were drafted originally for this case (do not include standardized motions, etc., unless content was modified significantly).

Investigation and case preparation (e.g., number and accessibility of witnesses interviewed, record collection, document organization).

Use of investigative, expert, or other services (CJA 21 voucher).

The following client considerations: communication with client/family, language difference, accessibility of client, other.

Any expense (see Items 17 and 18 of the CJA 20 voucher) greater than \$500.

Any other noteworthy circumstances regarding the case and the representation provided to support this compensation request. Include, if applicable: negotiations with the U.S. Attorney's office or law enforcement agency; complexity or novelty of legal issues and factual complexity; responsibilities involved measured by the magnitude and importance of the case; manner in which duties were performed and knowledge, skill, efficiency, professionalism, and judgment required of and used by counsel; nature of counsel's practice and hardship or injury resulting from the representation; any extraordinary pressure of time or other factors under which services were rendered.